

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint By

FINAL DECISION

Gregory Smith,

Complainant

against

Docket #FIC 2020-0553

Vannessa Dorantes, Commissioner,  
State of Connecticut, Department of  
Children and Families; and  
State of Connecticut,  
Department of Children and Families;

Respondents

July 13, 2022

By letter of complaint, received and filed by the Commission on October 28, 2020, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to respond to his request for copies of certain records.<sup>1</sup> On April 7, 2022, the respondents moved to dismiss the matter pursuant to §1-206(b)(4), G.S. On June 2, 2022, a hearing was held for the purpose of allowing the parties to address the motion to dismiss.<sup>2</sup> At the time of the request and the hearing on the motion, the complainant was incarcerated.

After consideration of the arguments of the parties, and careful review of the complaint and pleadings in this matter, the following findings are made:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated October 2, 2020, and pursuant to the FOI Act, the complainant requested from the respondents all police, medical and other reports and records relating to “the alleged physical abuse” of the complainant’s daughter. It is found

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<sup>1</sup> On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, through June 30, 2021. Consequently, the Commission retains jurisdiction to decide the motion to dismiss.

<sup>2</sup> The hearing was conducted remotely through the use of electronic equipment, pursuant to §149 of Public Act 21-2 (June Sp. Sess.), as amended by §1 of Public Act 22-3.

that the respondents denied the request on the ground that such records are not subject to disclosure under the FOI Act.

3. In their motion to dismiss, the respondents argued that the Commission lacks jurisdiction to determine the right of access to records of the department's child protection activities, and that therefore, the Commission should confirm the action of the respondents denying the request, and dismiss the complaint.

4. Section 1-206(b)(4), G.S., provides, in relevant part, that:

[n]otwithstanding any provision of this subsection to the contrary, in the case of an appeal to the commission of a denial by a public agency, the commission may, upon motion of such agency, confirm the action of the agency and dismiss the appeal without a hearing if it finds, after examining the notice of appeal and construing all allegations most favorably to the appellant, that (A) the agency has not violated the Freedom of Information Act....”

5. At the time of the request, §1-200(5), G.S., provided:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.<sup>3</sup>

6. Section 1-210(a), G.S., provides, in relevant part, that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to...receive a copy of such records in accordance with section 1-212. (Emphasis added).

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<sup>3</sup> Section 147 of Public Act 21-2 (June Sp.Sess.) amended the definition of “public records or files” to also include data or information that is “videotaped.”

7. Section 1-212(a), G.S., provides, in relevant part, that: “[a]ny person applying in writing shall receive, promptly upon request, a plain or certified copy of any public record....”

8. Section 17a-28, G.S., defines records as “information created or obtained in connection with the department’s child protection activities or other activities related to a child while in the care of custody of the department, including information in the registry of reports to be maintained by the commissioner....”

9. Section 17a-101k, G.S., provides, in relevant part, that the “information contained in the registry and any other information relative to child abuse, wherever located, shall be confidential, subject to such statutes and regulations governing their use and access as shall conform to the requirements of the federal law or regulations.”

10. The Appellate Court has ruled that §17a-101k, G.S., falls within the “except as otherwise provided” language in §1-210(a), G.S., and therefore disclosure of information contained in the registry and other information relative to child abuse, is not governed by the FOI Act. Groton Police Dept. v. Freedom of Information Commission, 104 Conn. App. 150, 165-166 (2007).

11. It is clear from face of the complaint itself that the requested records pertain to the respondents’ child protection activities and constitute “information relative to child abuse,” and that therefore such records are not “public records” pursuant to §1-210(a), G.S.

12. Thus, after examining the complaint and pleadings in this matter and construing all allegations most favorably to the complainant, it is concluded that the Commission lacks jurisdiction over the complaint.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The action of the respondents is confirmed, and the complaint is dismissed pursuant to §1-206(b)(4)(A), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 13, 2022.



Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**GREGORY SMITH, #345398**, Willard/Cybulski Correctional Institution, 391 Shaker Road, Enfield, CT 06082

**VANNESSA DORANTES, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CHILDREN AND FAMILIES; AND STATE OF CONNECTICUT, DEPARTMENT OF CHILDREN AND FAMILIES**, c/o Attorney Lynn M. Hebert, State of Connecticut, Department of Children and Families, 505 Hudson Street, Hartford, CT 06106



Cynthia A. Cannata  
Acting Clerk of the Commission